

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTSKENNETH BROOKS,  
Plaintiff,

V.

THE UNITED STATES OF AMERICA, and  
MARY JANE ESTRADA, N.P.  
Defendants.

RECEIPT # 66240  
 ) AMOUNT \$ 250.00  
 ) SUMMONS ISSUED Y  
 ) LOCAL RULE 4.1         
 ) WAIVER FORM         
 ) MCF ISSUED         
 ) BY DPTY. CLK. CAG  
 ) DATE 8-12-05

**05 - 11674 GAO**  
**COMPLAINT**

**COUNT I**MAGISTRATE JUDGE Bowles

1. The plaintiff, Kenneth Brooks, brings this action as a resident of South Boston, Suffolk County, Massachusetts.
2. The defendant, United States of America, is a public employer within the meaning of 28 U.S.C. §1346(b) and 2671 et seq. and at all times herein relevant operated the Geiger Gibson Community Health Center.
3. This action is brought to recover for the permanent injury and pain and suffering of Kenneth Brooks pursuant to 28 U.S.C. §§1346 and 2671 et seq.
4. Jurisdiction is based on 28 U.S.C. §1346(b), the Federal Tort Claims Act.
5. All statutory conditions precedent to filing suit have been met.
6. At all times relevant to this complaint, the defendant, United States of America, by its agents, servants or employees, represented and held itself out to be skilled in the treatment of various illnesses and conditions and, in particular, represented to the plaintiff that it was knowledgeable, competent and qualified to diagnose and treat the plaintiff on or about 11/7/03.
7. On or about 11/7/03, the plaintiff submitted himself to the care and treatment of the defendant, United States of America, by its agents, servants or employees, who negligently and carelessly and without regard for the plaintiff's health and well-being, treated the plaintiff in a manner which resulted in severe personal injuries to the plaintiff, Kenneth Brooks.
8. The injuries sustained by the plaintiff, Kenneth Brooks, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, United States of America, by its agents, servants or employees, including but not limited to the following:

- a. its misrepresentations to the plaintiff that it was knowledgeable, skillful and competent to diagnose and treat the plaintiff on or about 11/7/03;
- b. its failure to adequately and properly diagnose the medical condition of the plaintiff on or about 11/7/03, and its failure to properly treat said condition;
- c. its failure to recognize, or to have the knowledge to recognize its inability and lack of skill to treat the plaintiff, when it knew or should have known of the foreseeable consequences of her inability and failure to properly and skillfully provide the plaintiff with acceptable medical care and treatment;
- d. its failure to possess and exercise that degree of skill, training and care as is possessed and exercised by the average qualified members of the medical profession practicing her specialty.
- e. its failure to inform and to warn of the risks involved in or associated with the plaintiff's condition and that of his mother and failure to inform and to warn about the treatment of said condition.

9. As a direct and proximate result of the negligence, carelessness and unskillfulness of the defendant, United States of America, by its agents, servants or employees, the plaintiff, Kenneth Brooks, was caused to sustain severe and permanent personal injuries; has suffered and will continue to suffer great pain of body and anguish of mind; has been hospitalized and will continue to be hospitalized and disabled for a long period of time; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the plaintiff, Kenneth Brooks, prays judgment against the defendant, United States of America, by its agents, servants or employees, in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

## **COUNT II**

1. The plaintiff, Kenneth Brooks, repeats and reavers fully herein the allegations contained in Paragraphs One through Nine of Count I of this complaint as if each were set forth here in its entirety.

2. On or about 11/7/03, the defendant, United States of America, by its agents, servants or employees, contracted with the plaintiff to provide professional services related to the medical care of the plaintiff and obstetrical delivery of the plaintiff, and associated professional services.

3. The defendant, United States of America, by its agents, servants or employees, expressly and impliedly warranted to the plaintiff that it would perform and render said professional services in accordance with accepted standards for the practice of medicine, and that it would possess and

exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing its specialty.

4. On or about 11/7/03, the defendant, United States of America, by its agents, servants or employees, breached its express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of medicine, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing its specialty.

5. As a direct and proximate result of the defendant, United States of America, by its agents, servants or employees breach of express and implied warranties, the plaintiff, Kenneth Brooks, was caused to sustain severe and permanent personal injuries; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized and disabled for a long period of time, and will continue to be disabled for the remainder of his life; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the plaintiff, Kenneth Brooks, prays judgment against the defendant, United States of America, by its agents, servants or employees, in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

### **COUNT III**

1. The plaintiff, Kenneth Brooks, repeats and reavers fully herein Paragraphs One through Nine of Count I and Paragraphs One through Five of Count II of this complaint as if each were set forth here in its entirety.

2. On or about 11/7/03, average qualified members of the medical profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the plaintiff.

3. On or about 11/7/03, the defendant, United States of America, by its agents, servants or employees, knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the plaintiff.

4. On or about 11/7/03, the defendant, United States of America, by its agents, servants or employees, did not inform the plaintiff of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the plaintiff.

5. If the defendant, United States of America, by its agents, servants or employees, had informed the plaintiff of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the plaintiff, neither the plaintiff nor a reasonable person in his position would have elected the defendant's choice of treatment.

6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the plaintiff and a reasonable person in his position as to whether to undergo the defendant's choice of treatment.

7. As a direct and proximate result of the defendant, United States of America, by its agents, servants or employee's, failure to inform the plaintiff of the alternatives to and risks and potential consequences of the defendant's treatment, the plaintiff, Kenneth Brooks, was caused to sustain severe and permanent personal injuries; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities, and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the plaintiff, Kenneth Brooks, prays judgment against the defendant, United States of America, by its agents, servants or employees, in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

#### **COUNT IV**

1. The plaintiff, Kenneth Brooks, repeats and reavers fully herein Paragraphs One through Nine Of Count I, Paragraphs One through Five of Count II and Paragraphs One through Seven of Count III of this complaint as if each were set forth here in its entirety.

2. As a direct and proximate result of the defendant, United States of America, by its agents, servants or employees' negligence, breach of warranties and failure to obtain informed consent, the plaintiff, Kenneth Brooks, has suffered and will continue to suffer severe emotional distress resulting in substantial physical injury.

WHEREFORE, the plaintiff, Kenneth Brooks, prays judgment against the defendant, United States of America, by its agents, servants or employees, in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

#### **COUNT V**

1. The plaintiff, Kenneth Brooks, repeats and reavers fully herein Paragraphs One through Nine of Count I, Paragraphs One through Five of Count II, and Paragraphs One through Seven of Count III of this complaint as if each were set forth here in its entirety.

2. As a direct and proximate result of the defendant, United States of America, by its agents, servants or employees' negligence, breach of warranties and failure to obtain informed consent, the plaintiff, Kenneth Brooks, has incurred and will continue to incur great expense for his medical, surgical and hospital care and treatment.

WHEREFORE, the plaintiff, Kenneth Brooks, prays judgment against the defendant, United States of America, by its agents, servants or employees, in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

**COUNT VI**

1. The plaintiff, Kenneth Brooks, is a resident of South Boston, Suffolk County, Massachusetts.
2. The defendant, Mary Jane Estrada, N.P., was at all times relevant to this complaint a nurse licensed to practice her profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, Mary Jane Estrada, N.P., represented and held herself out to be a nurse, skilled in the treatment of various illnesses and conditions and, in particular, represented to the plaintiff that she was knowledgeable, competent, and qualified to diagnose and treat the plaintiff's condition on or about 11/7/03.
4. On or about 11/7/03, the plaintiff submitted himself to the care and treatment of the defendant, Mary Jane Estrada, N.P., who negligently, carelessly, and without regard for the plaintiff's health and well-being, treated the plaintiff in a manner resulting in the plaintiff's severe personal injuries.
5. The injuries sustained by the plaintiff, Kenneth Brooks, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Mary Jane Estrada, N.P., including, but not limited to the following:
  - a. Defendant's misrepresentations to the plaintiff that she was knowledgeable, skillful, and competent to diagnose and treat the plaintiff's medical condition on or about 11/7/03;
  - b. Defendant's failure to adequately and properly diagnose the plaintiff's medical condition on or about 11/7/03, and her failure to prescribe proper and timely treatment for said condition;
  - c. Defendant's failure to recognize, or have the knowledge to recognize her inability and lack of skill to diagnose and treat the plaintiff, when the defendant knew or should have known in the exercise of due care, the foreseeable consequences of her inability and failure to properly and skillfully provide the plaintiff with acceptable nursing services;
  - d. Defendant's failure to possess or negligent failure to exercise that degree of skill, training, and care as is possessed and exercised by average qualified members of the nursing profession practicing her specialty; and

- e. Defendant's failure to inform and to warn of the risks involved in or associated with the plaintiff's condition and failure to inform and to warn about the treatment of said condition.
6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Mary Jane Estrada, N.P., the plaintiff, Kenneth Brooks, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the plaintiff, Kenneth Brooks, prays judgment against the defendant, Mary Jane Estrada, N.P., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

#### **COUNT VII**

1. The plaintiff, Kenneth Brooks, repeats and reavers fully herein Paragraphs One through Six of Count VI of this complaint as if each were set forth here in its entirety.
2. On or about 11/7/03, the defendant, Mary Jane Estrada, N.P., contracted with the plaintiff to provide professional services related to the plaintiff's nursing care and treatment.
3. The defendant, Mary Jane Estrada, N.P., expressly and impliedly warranted to the plaintiff that she would perform and render said professional services in accordance with accepted standards for the practice of nursing, and that she would possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the nursing profession practicing her specialty.
4. On or about 11/7/03, the defendant, Mary Jane Estrada, N.P., breached her express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of nursing, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the nursing profession practicing her specialty.
5. As a direct and proximate result of the defendant, Mary Jane Estrada, N.P.'s breach of express and implied warranties, the plaintiff, Kenneth Brooks, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the plaintiff, Kenneth Brooks, prays judgment against the defendant, Mary Jane Estrada, N.P., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

**COUNT VIII**

1. The plaintiff, Kenneth Brooks, repeats and reavers fully herein Paragraphs One through Six of Count VI and Paragraphs One through Five of Count VII of this complaint as if each were set forth here in its entirety.
2. On or about 11/7/03, average qualified members of the nursing profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the plaintiff.
3. On or about 11/7/03, the defendant, Mary Jane Estrada, N.P., knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the plaintiff.
4. On or about 11/7/03, the defendant, Mary Jane Estrada, N.P., did not inform the plaintiff of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the plaintiff.
5. If the defendant, Mary Jane Estrada, N.P., had informed the plaintiff of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the plaintiff, neither the plaintiff nor a reasonable person in his position would have elected the defendant's choice of treatment.
6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the plaintiff and a reasonable person in his position as to whether to undergo the defendant's choice of treatment.
7. As a direct and proximate result of the defendant, Mary Jane Estrada, N.P.'s failure to inform the plaintiff of the alternatives to and risks and potential consequences of the defendant's treatment, the plaintiff, Kenneth Brooks, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the plaintiff, Kenneth Brooks, prays judgment against the defendant, Mary Jane Estrada, N.P., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

**COUNT IX**

1. The plaintiff, Kenneth Brooks, repeats and reavers fully herein Paragraphs One through Six of Count VI, Paragraphs One through Five of Count VII and Paragraphs One through Seven of Count VIII of this complaint as if each were set forth here in its entirety.

2. As a direct and proximate result of the defendant, Mary Jane Estrada, N.P.'s negligence, breach of warranties and failure to obtain informed consent, the plaintiff, Kenneth Brooks, has suffered and will continue to suffer severe emotional distress resulting in substantial physical injury.

WHEREFORE, the plaintiff, Kenneth Brooks, prays judgment against the defendant, Mary Jane Estrada, N.P., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

**COUNT X**

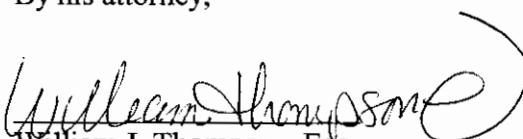
1. The plaintiff, Kenneth Brooks, repeats and reavers fully herein Paragraphs One through Six of Count VI, Paragraphs One through Five of Count VII and Paragraphs One through Seven of Count VIII of this complaint as if each were set forth here in its entirety.

2. As a direct and proximate result of the defendant, Mary Jane Estrada, N.P.'s negligence, breach of warranties and failure to obtain informed consent, the plaintiff, Kenneth Brooks, has incurred and will continue to incur great expense for his medical, surgical and hospital care and treatment.

WHEREFORE, the plaintiff, Kenneth Brooks, prays judgment against the defendant, Mary Jane Estrada, N.P., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

**PLAINTIFF CLAIMS TRIAL BY JURY.**

Respectfully submitted,  
The plaintiff,  
By his attorney,



William J. Thompson, Esq.  
LUBIN & MEYER, P.C.  
100 City Hall Plaza  
Boston, MA 02108  
(617) 720-4447  
BBO#: 559275

## CIVIL COVER SHEET- 11674 GAO

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Kenneth Brooks

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorney's (Firm Name, Address, and Telephone Number) 617-720-4447  
William J. Thompson, Esquire  
100 City Hall Plaza, Boston, MA 02108

## DEFENDANTS

United States of America and Mary Jane Estrada  
NPCounty of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input checked="" type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)  
(For Diversity Cases Only)

Citizen of This State	<input type="checkbox"/> PTF 1	<input type="checkbox"/> DEF 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF 4	<input type="checkbox"/> DEF 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input checked="" type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other	<input type="checkbox"/> 810 Selective Service	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 850 Securities/Commodities Exchange	
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 890 Other Statutory Actions	
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>LABOR</b>	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 892 Economic Stabilization Act	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 893 Environmental Matters	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 894 Energy Allocation Act	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 895 Freedom of Information Act	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 950 Constitutionality of State Statutes	
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation		
		<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
			<b>FEDERAL TAX SUITS</b>	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

## V. ORIGIN

(Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7	Appeal to District Judge from Magistrate Judgment
---	---	--	---	--	---	----------------------------	---

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC Section 1346

## VI. CAUSE OF ACTION

Brief description of cause:

Delay in diagnosis of Metastatic Squamos cell carcinoma

## VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

## DEMANDS

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

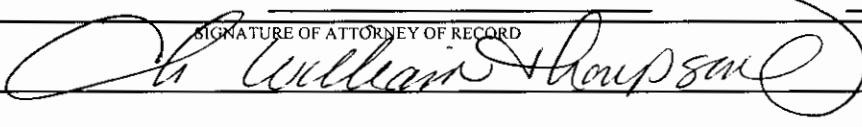
JUDGE

DOCKET NUMBER

DATE

8/11/05

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

45-11674-GAO

1. Title of case (name of first party on each side only) Kenneth Brooks v. United States District Court and Mary Jane Estrada, N.P.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.

II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, \*Also complete AO 120 or AO 121  
740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. for patent, trademark or copyright cases

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310,  
315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,  
380, 385, 450, 891.

IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660,  
690, 810, 861-865, 870, 871, 875, 900.

V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES  NO 

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES  NO YES  NO 

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES  NO 7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES  NO A. If yes, in which division do all of the non-governmental parties reside?Eastern Division  Central Division  Western Division 

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division  Central Division  Western Division 

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES  NO 

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME William J. Thompson, EsquireADDRESS 100 City Hall Plaza, Boston, MA 02108TELEPHONE NO. (617) 720-4447